BEFORE THE
ILLINOIS COMMERCE COMMISSION
SPRINGFIELD, ILLINOIS

NORTH COUNTY COMMUNICATIONS CORPORATION,

Complainant,

v. CASE NO. 02-0147

VERIZON NORTH, INC., et al.,

Respondents.

DIRECT TESTIMONY OF DOUGLAS A. DAWSON

ON BEHALF OF NORTH COUNTY COMMUNICATIONS, INC.

Dated: February 10, 2003

Testimony of Douglas A. Dawson

Table of Contents

Testimony of Douglas A. Dawson

BACKGROUND OF THE WITNESS

Q. Please state your name, company and business address.

A. My name is Douglas A. Dawson. I am both a founder and an owner of CCG Consulting, Inc. ("CCG"), located at 6811 Kenilworth Avenue, Suite 300, Riverdale, Maryland, 20737.

Q. On whose behalf are your submitting this testimony?

A. I am submitting this testimony on behalf of North County Communications, Inc. ("NCC"), a competitive local exchange carrier ("CLEC") operating in West Virginia.

Q. What is your educational background?

A. I received a Bachelor of Science in Accounting from the University of Maryland in 1977. In addition, I received a Masters degree in Mathematics from the University of California at Berkeley in 1985.

Q. What is your business background?

A. Prior to founding CCG, my most recent job was as the Staff Director of Special Studies at John Stauralakis, Inc. ("JSI") of Seabrook, Maryland. In that capacity, I oversaw all projects that were not historically part of JSI's core telephone separations business. I worked to assist clients on such projects as the analysis and implementation of becoming a toll reseller; the development of optional toll and local calling plans; studying and implementing traditional Extended Area Service (EAS) and Measured EAS plans; conducting feasibility studies associated with the implementation of new Internet subsidiaries; performing embedded and incremental cost studies for products and services; assisting in local rate case preparation and defense; development of lease rates for sales to affiliates and non-affiliates; conducting cross-subsidy studies determining the embedded overlap between telephone services; and preparation of analyses concerning the potential impact of competition on rural ILECs.

Before serving as Staff Director of Special Studies at JSI, I worked at JSI as a manager in the Separations Department. In that capacity, I supervised and performed Part 36/69 toll cost studies, prepared a large number of separations studies, calculated the access charge rates for Interstate and State access charge tariffs, and re-wrote the JSI Part 36/69 allocator into a Windows-based spreadsheet. Part 36/69 are FCC rules that govern the way that telephone companies account for their costs by jurisdiction. These rules are used by small telephone companies to develop formulas and procedures for getting paid from the larger telephone companies like Verizon for the use of the shared common network. I also taught a number of classes in Part 32 accounting practices, telephone separations, and budgeting and planning.

Before serving as a manager in the Separations Department at JSI, I had operational experience in various job titles for CP National in Concord, California. My final position there was as Director of Revenues, and in that capacity I oversaw a large group that performed telephone accounting, telephone separations and traffic studies for a seven-state area. My group also monitored earnings, maintained tariffs, filed rate cases, developed access and end-user tariff rates, and monitored and commented in state and federal regulatory proceedings. I testified in a number of rate cases and regulatory proceedings in California, Nevada, Oregon and New Mexico. While at CP National, I was also responsible for earnings monitoring and rate case development for electric, gas and water properties.

Before joining CP National, I worked as Staff Manager in Industry Relations at Southwestern Bell in St. Louis, Missouri. My functions there included tracking issues that impacted Bell's relationships with the independent telephone industry, calculating and negotiating various interconnection and settlement rates between companies for EAS and other arrangements, and overseeing the review of an independent telephone company's traffic and toll cost studies. I also served a stint as a member of the rate case team for the Missouri operations.

Before joining Southwestern Bell, I began my career at John Stauralakis, Inc. performing Part 67 separations studies.

Q. What is your specific role at CCG?

A. I am a founder and owner and have the title of Chief Technical Officer. I am in charge of the CLEC implementation team. In that capacity, I have direct responsibility for the business planning, regulatory and engineering groups and products within our company. I personally conduct all of the accounting development and advisory work for clients, I directly assist companies to plan the best strategic path for future growth, and I am in charge of all of the costing and pricing work that CCG performs. CCG consults to over 250 carriers, predominantly CLECs, nationwide and we have gained broad industry knowledge of how CLECs function in the real world.

Q. Please describe how your experience is relevant to the facts in this case.

A. One of the functions I perform at the company is to negotiate interconnection agreements on behalf of clients. Once clients have obtained interconnection I work with them to implement their desired network. In that role I have negotiated many interconnection arrangements with all of the regional Bell operating companies (RBOCs), have attended numerous interconnection engineering meetings, and have seen many networks through to completion. Further, I have three staff members who also perform these roles and we are almost constantly at various stages of network implementation with various clients. I work with my staff to keep our firm abreast of the various changes in interconnection agreements and in implementation policies. One would think that after five years of active competition that issues associated with interconnection would have stabilized, but the RBOCs and CLECs are in a constant dance to gain advantage over each other and the language and nuances of interconnection shift constantly. In addition to working with the RBOCs we have worked to interconnect with smaller players like ALLTEL, Citizens Utilities, Century, the old GTE and Sprint. Since 1997 I have probably been involved directly or as an advisor to my staff in as many different interconnection negotiations as anybody in the industry.

SUMMARY OF THE TESTIMONY

Q. What is the purpose of your testimony?

A. The purpose of this testimony is to support NCC in its complaint against Verizon concerning problems with interconnecting their two networks.

Q. Can you summarize your testimony?

A. Yes. I looked at Verizon's policy to refuse to interconnect with North County at any, "technically feasible point" as required under the Telecom Act, 47 U.S.C. §251(c)(2)(B). Verizon created an unlawful policy of not allowing the sharing of "retail" and "wholesale" networks in the field. I conclude that this policy causes waste and network inefficiencies, delayed North County's entry into the market and deprived the citizens of Illinois a choice in local carriers.

THE POLICY OF SHARING FACILITIES

Q. The primary dispute between the two parties is the unwillingness of Verizon to allow NCC, as a carrier, to share existing "retail" facilities. Can you elaborate on this issue?

A. Yes. Verizon has a policy of segregating different classes of facilities. They have made a distinction between "retail" and "wholesale" facilities. Before the advent of CLECs, Verizon interconnected with other carriers that consisted mostly of interexchange carriers (IXCs) and wireless providers. Most of these traditional carriers interconnected with the Verizon network at a few well-defined locations. For the most part these types of carriers only sought interconnection at Verizon central offices. This means that Verizon was able to establish "wholesale" facilities at its central office hubs.

This also means that in the vast Verizon network that the majority of fiber routes were to locations other than central offices and for the most part were easily categorized as "retail" facilities. Such routes were thus fully dedicated to retail customers. The relatively small number of carrier circuits, the dedicated nature of these carrier circuits and the concentration of these circuits at Verizon central offices made it easy for Verizon to identify carrier customers and to create a class of facilities dedicated to "wholesale". This distinction in the past made it easy for Verizon to segregate work functions for administrative convenience. For example, they were able to have employees dedicated to working only on the "wholesale" carrier circuits.

However, the 1996 Telecommunications Act somewhat changed these clean distinctions in the network when the Congress and the FCC granted CLECs the ability to interconnect with Verizon at any technically feasible location. CLECs are not limited to historic definitions of "wholesale" and "retail" interconnections but rather have a wider range of options. While IXCs and wireless carriers had a clear historic preference to interconnect at Verizon central offices, the CLECs have more options.

Further, the advent of modern electronics has blurred the need for these distinctions. Modern electronics allow great flexibility for the use of facilities and today it is possible, even easy, to share "retail" and "wholesale" traffic on the same facilities. In fact, at the network transport level this is done routinely. As I will demonstrate, this is also very possible and quite achievable at the field level.

Q. Are you saying that the "wholesale" carrier versus "retail" distinction is somewhat obsolete?

A. Yes. There was a day when such a distinction probably made sense for Verizon. However, with modern electronics and smart routing there is no reason that I can think of why a large transmission terminal, such as an OC-3 or an OC-12, at a customer network node can't be shared and easily subdivided into smaller data pipes that could service both retail and wholesale carrier customers. In the end, all that matters is that each type of traffic ends up at the right ultimate terminating location in the Verizon tandem. In the modern tandem office, splitting traffic and delivering it to the right part of the tandem is easily achievable.

Q. Do RBOCs other than Verizon allow the mixing of CLEC traffic with other existing traffic at the same network nodes?

A. Yes. I am aware of other CLECs who have gotten the kind of interconnection that NCC has requested from Verizon. Of particular note is the fact that NCC has gotten this type of interconnection from other RBOCs and Verizon seems to be the only RBOC who has this policy of full segregation of "retail" and "wholesale" facilities. For example, NCC has interconnected with PacBell (part of SBC/Ameritech) at combined wholesale/retail locations in California in four different cities, San Diego, Los Angeles, Sacramento and San Francisco. NCC has interconnected with Qwest at combined wholesale/retail facilities in Portland, Oregon, Vancouver, Washington, Phoenix, Arizona and Tucson, Arizona. These RBOCs never raised any issue about the ability to interconnect at such facilities and apparently they have no "policy" prohibiting such connections as does Verizon. I also have other clients who have obtained such interconnection from BellSouth.

Q. Has NCC encountered this same issue with Verizon in any other states?

A. Yes. When NCC requested such a connection from Verizon in West Virginia they were initially denied interconnection for the same reasons as in this case and were not allowed to interconnect at a joint retail / wholesale facility. Instead, Verizon wanted NCC to wait for a fiber build to that facility to install a new "wholesale" multiplexer. This inability to interconnect at the retail facility caused a significant delay to NCC's entry into the marketplace. It was only when NCC was on the verge of losing its NXX codes that Verizon relented and allowed interconnection the way NCC had been requesting for six months, albeit on what Verizon viewed as a temporary basis. NCC has also run across the same delay associated with Verizon's fiber build policy in New York and Illinois, as well.

Q. Are you aware of other instances where Verizon has refused interconnection to another CLEC at a retail facility?

A. Yes. I currently serve as an expert witness and consultant to another CLEC, Core Communications, Inc., in a nearly identical complaint in Maryland. In that case, Core was seeking interconnection at a number of retail facilities in Maryland. The reasons for rejecting Core's requests were identical to the reasons that Verizon has given to NCC, mainly consisting of the argument that Verizon has a "policy" against sharing retail and wholesale facilities. The Maryland Public Service Commission recently heard this case. Since I know of cases where such interconnection has been allowed by Qwest, PacBell (part of SBC/Ameritech), and BellSouth, Verizon seems to be the only RBOC who still denies this type of interconnection.

Q. Did the FCC foresee new network arrangements in the 1996 Telecommunications Act?

A. I believe they did. The FCC foresaw that new CLECs would be making new requests on the RBOCs that were different than the ways the RBOCs had interconnected with other carriers in the past. There was lengthy discussion from the FCC on the topic of how and where a CLEC could interconnect with an RBOC and this led the FCC to adopt a key right for CLECs to interconnect with the RBOC at any "technically feasible point." 47 U.S.C. §251(c)(2)(B). There was no mention, or even contemplation that the RBOCs would interpret this mandate in such a way as to require "separate but equal" new facilities -for local interconnection. That is what the Verizon policy amounts to – they have set aside all existing field facilities by declaring them to be "retail" and have thus created a requirement that a CLEC must wait for the slow construction of new facilities, even when existing facilities already exist that would meet the purpose. This Verizon policy seems like nothing more than another of Verizon's delaying tactics to me. As one who has negotiated numerous interconnections, including with Verizon in West Virginia, I have seen a pattern of constantly shifting excuses and policies that are nothing more than pretextual excuses to make interconnection as difficult as possible. This is just one more "policy" in a much larger series of such policies that seem to serve no purpose but to slow CLECs from getting into business.

Q. Isn't interconnection at any technically feasible point the most efficient and cost effective way to interconnect with Verizon?

A. Yes. By way of background, a multiplexer is a device that combines several signals for transmission over a single medium. A demultiplexer completes the process by separating multiplexed signals from a multiplexed line. These functions are commonly shared in the same device capable of processing both incoming and outgoing signals. Multiplexers come in various sizes according to how many circuits and how much total bandwidth they can handle. To use the existing multiplexer means that Verizon would not have to purchase new hardware, nor would they have to dedicate an additional fiber pair from the SONET[1] ring to the customer location.

Q. Was it possible for Verizon to interconnect using existing shared facilities to serve NCC?

A. Yes, in fact, that's exactly what Verizon did after NCC filed this complaint.

Q. Would you conclude that it was technically feasible for NCC to use existing facilities?

[1] SONET – Synchronous Optical Network. This is an industry standard transmission technology commonly used on fiber.

A. Yes. There are no issues, from a technical standpoint, of NCC being considered a "wholesale" carrier while these devices were slated for "retail" use. Essentially a T1 is a T1 whether it is used for carrier grade service or customer grade service. NCC's planned bandwidth was clearly of a type that existing devices were designed to handle.

For instance, in West Virginia, Verizon eventually agreed allow a few T1s to be connected to the retail facility. They clearly had the bandwidth available. However, Verizon continued to stick to its policy of segregating retail and wholesale facilities and they did not allow NCC to have all of the bandwidth it wanted at that building. I can't think of one reason, other than Verizon's policy of segregating wholesale and retail facilities, why NCC was not given all of the bandwidth it requested on a timely basis and why it couldn't keep it's existing circuits on the "retail" facility.

In the end, with modern electronics, routing is more a matter of programming the electronics than it is of tracing the path of physical fibers. There is no technical reason that I can think of that would stop Verizon from mixing a carrier and retail traffic on the same fiber and still have the ability to terminate each circuit to the appropriate place within the tandem.

Q. Throughout this litigation, Verizon has maintained that what happened in other jurisdictions had no bearing on what happened in Illinois. Do you agree with this premise?

A. No. Obviously from a technical standpoint, any large telephone company should be able to perform the same functions as any other large telephone company. Verizon's position seems peculiar in light of 220 ILCS § 5/13-801, which indicates that ". . . to the extent that interconnection, collocation, or network elements have been deployed for or by the incumbent local exchange carrier or *one of its wireline local exchange affiliates in any jurisdiction*, it shall be presumed that such is technically feasible in Illinois." As a result, once Verizon demonstrated that there was no technical infeasibility preventing interconnection at a retail facility, as in West Virginia, its continued assertion of its "policy" was a slap in the face to Illinois ratepayers.

Q. So is your conclusion then that what NCC wanted to do was technically feasible?

A. Yes. Not only was it technically feasible, it was practically feasible. In fact, using any other solution would cost time delays and require additional and unnecessary capital expenditures.

Q. Does Verizon treat all customers the same when it comes to turning up new services?

A. No they don't, and I think that gets to the heart of the matter in the NCC complaint. Lets look at a -large retail customer who already has service from Verizon. Let's assume that this retail customer is one of sufficient magnitude that Verizon has already installed a field multiplexer , such as an OC-3. What time frames would such a retail customer expect if they requested that additional circuits be installed on the existing multiplexer?

Years ago, before the Act, such a customer might have had a substantial wait for new service from Verizon. Installation dates have always been a bone of contention between large customers and Verizon. However, most installation complaints come from those circumstances where new facilities must be built to meet the customer requirements. The example we are looking at is one where the field equipment already existed. I don't want to oversimplify such an installation, but this is of the type of installation that can be categorized almost as "flipping a switch" to turn up new service. The field hardware already existed, the path between the Verizon tandem and that field hardware was fully in place and defined. Turning up such a new circuit on such a facility requires little more than creating the paperwork records necessary to document the service and of then activating the pre-existing electronic path – flipping the switch.

I know of a number of examples where Verizon has installed new T1s or DS3s at such a retail location in less than 30 days. I am sure that most such quick installations are of the type described here where the facilities between Verizon and the customer were already in place. I have seen a big shift in the way that Verizon treats its largest retail customers since 1996. Competition with CLECs has forced Verizon to compete for the large customers and they have gotten faster and better in serving them.

Another large class of customers are the carriers, such as IXCs or wireless providers. It is a very typical situation in a carrier environment to pre-configure a large facility such as an OC-3 or OC-12 multiplexer for the very reason that Verizon can turn up circuits quickly should the need arrive. It is not unusual, when facilities are already in place, for carriers to get circuits in 30 days or even far less than 30 days.

Q. If Verizon can turn up service for a retail customer or other carrier this quickly, is there any reason why they can't do this for a CLEC as well?

A. No. My answer is obviously that Verizon could turn up the CLEC quickly if Verizon wanted to do so. Again, let me reiterate that the circuits sold for retail and for wholesale CLEC provisioning are for most practical purposes identical. If anything, retail circuits are sometimes more complex than wholesale interconnection circuits. Retail customers often have unusual hardware connection issues or unique signaling requirements while interconnection trunks tend to be about as vanilla as such circuits can be.

Where a multiplexer existed, Verizon could have effectuated the desired circuits in a short period of time. Their failure to do so constitutes a lack of willingness to treat a CLEC in the same manner they would treat a large retail customer—including an IXC or a CMRS (*i.e.*, wireless) carrier - and may be indicative of internal systems established at Verizon to slow the CLEC process. This is where I think the real difference between retail and wholesale exists at Verizon. Large retail customers are handled with a system that is as nimble and efficient as anything that Verizon does. Large retail customers demand and receive good service from Verizon (under the threat of taking their business elsewhere should Verizon fail to deliver). Verizon has undoubtedly created an internal workflow and paperwork process that allows them to handle large customers in an efficient way.

However, Verizon doesn't handle CLECs in the same manner as they do large retail customers. Indeed, in an attempt to satisfy its nondiscrimination obligations to CLECs, Verizon seeks to provide "separate but equal" treatment to CLECs, which, not surprisingly, results in discriminatory treatment to CLECs. First, Verizon has created a new department to deal with CLECs. All CLEC interface with Verizon must pass through this CLEC department and this is the CLEC's only point of contact with Verizon. Is this separate treatment necessarily bad? Perhaps not theoretically. But in actual practice CLECs experience a lot of delays and problems that are not faced by the large retail customer or other carriers. The new CLEC department at Verizon seems to be in a state of constant turmoil with a lot of employee churn and with a lot of inexperienced account representatives being assigned to CLECs. In practical terms, the CLEC department is often a bottleneck for a CLEC and is one reason in my experience why CLECs don't receive service of the same quality as that provided to large retail customers and to other carriers.

I think another reason for the inferior service that CLECs receive from Verizon is the seemingly never-ending creation of policies that are unique for CLECs. The example I am discussing in this testimony - the unwillingness of Verizon to share a "retail" facility with a CLEC - is just one example of a CLEC-only policy. These polices are largely unwritten and capricious. There is no way for a CLEC to know that such policies exist, and these policies are usually sprung on CLECs in the midst of trying to actually implement interconnection. Time and again I have seen such mystifying and new policies pulled out of thin air in the midst of a CLEC trying to implement a network. The end result of these surprise policies has always been delays in network implementation.

My bottom line observation is that CLECs don't get service of the same quality of as that afforded to other existing carriers and large retail customers. This clearly flies in the face of the intention of the 1996 Telecommunications Act where the FCC clearly stated that CLECs were not to be discriminated against by Verizon. However, regardless of the specific reasons, NCC and other CLECs are routinely delayed when seeking to make interconnection. If large carriers can have connections made in 30 days or less on pre-existing facilities, then CLECs ought to be able to expect the same time frames. Anything less is discrimination against CLECs.

Q. Your second issue says there is a difference in acceptable time frames for implementing a new network versus the time frames involved with growing an existing network. Can you elaborate?

A. Yes. I want to make sure that we keep these two circumstances clearly separated. The first situation is the one that was facing NCC – trying to establish the initial interconnection with Verizon in order to get into business. This is a critical to the success of a CLEC and time is usually of the essence to a startup CLEC like NCC. Until the network is up and running, a CLEC can't interchange traffic with Verizon, can't sell to customers and ultimately can't get any revenues. The inability to get trunks connected to Verizon will stop a CLEC dead in its tracks. As the Commission is aware, very few CLECs have sufficient funding to patiently wait for Verizon to play games and delay network implementation. Time is money, and most CLECs, like NCC, have sufficient funds to get into business but don't have unlimited funds to wait out endless delays. Verizon knows this and I have always thought they have displayed what I have considered passive aggressive behavior with start-up CLECs. They are friendly enough in discussions, but they seem to constantly spring new reasons for delays in the initial interconnection with their network. I believe, after having worked with dozens of Verizon interconnections, that Verizon delays CLECs purposefully.

It makes no sense to me that Verizon should be able to take more time to turn up these trunks than they would for a retail customer who was at that same pre-existing facility. Forgetting about the paperwork trail, from a practical engineering perspective a Verizon technician could effect turning up such trunks in a very short period of time. I think Verizon must be held to a standard whereby new interconnections are effectuated with all possible haste, within the bounds of common sense. What NCC requested and expected was both practical and reasonable. For Verizon to say that NCC had unreasonable expectations is to hide behind paperwork and excuses. The fact is Verizon could easily have done what NCC wanted had Verizon desired to do so. I fully believe that they have an internal policy of delaying interconnection so that they can slow competitors from getting into business. They have seen CLECs come and go, and any little nudge they can give to a CLEC might contribute to them never showing up or of running out of funding. This is not what the FCC expected in its interpretation of the Act, and it is not what this Commission should accept.

Q. While the Telecommunications Act of 1996 and the ensuing FCC regulations are obviously a major component of your work and your testimony here today, should the Commission restrict its view of this matter to those two legal frameworks?

A. Not at all. 220 ILCS 5/13-514 provides this Commission with broad powers to oversee telecommunications carriers. Entitled "Prohibited Actions of Telecommunications Carriers," it indicates that "A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market." This is very broad language and the statute contains a long laundry-list of prohibited actions which are considered per se impediments to the development of competition. I have testified at length above about how Verizon's policy impedes the development of competition. In this instance and in line with the Illinois Public Utilities Act, Verizon's communication of its policy of refusing to interconnect with CLECs at retail facilities appears to fall into the several of the per se categories enumerated in 220 ILCS 5/13-514. But in addition, the statute still provides the Commission with the authority to go beyond these enumerated violations, because it expressly states that "the Commission is not limited in any manner to these enumerated impediments and may consider other actions which impede competition to be prohibited." In light of the shellacking that Verizon gave NCC in West Virginia, it would strain credulity for Verizon to assert it wasn't on notice that it was impeding competition yet again when it dragged out the fiber build policy when NCC sought to do business in Illinois.

Q. Do any legislative findings support your conclusion?

A. Yes, they do. In particular, the legislative findings which begin the telecommunications section of the Public Utilities Act are particularly instructive. In fact, in section 13-102 (d, e, f), the General Assembly finds that the Telecommunications Act of 1996 established the goal of opening all telecommunications service markets to competition and accords to the states the responsibility to establish and enforce policies necessary to attain that goal, it is in the immediate interest of the People of the State of Illinois for the State to exercise its rights within the new framework of federal telecommunications policy to ensure that the economic benefits of competition are realized as effectively as possible, and that the competitive offering of all telecommunications services will increase innovation and efficiency in the provision of telecommunications services and may lead to reduced prices for consumers, increased investment in communications infrastructure, the creation of new jobs, and the attraction of new business to Illinois.

Q. Would permitting Verizon to employ its policy advance the interests of any of the findings you just mentioned?

A. No, it would not.

Q. The State of Illinois has its own policy regarding telecommunications services, does it not?

A. It does.

Q. What is that policy?

A. According to section 13-103 (a) of the Public Utilities Act, telecommunications services should be available to all Illinois citizens at just, reasonable and affordable rates and such service should be provided as widely and economically as possible in sufficient variety, quality, quantity, and reliability to satisfy the public interest..

Q. Does allowing Verizon to employ its policy do anything to advance the policy of the State of Illinois which you just mentioned?

A. No, it does not.

Q. What other regulations have guided your opinions?

A. In particular, I look to 47 C.F.R. § 51.305, which addresses interconnection and finds its roots in 47 U.S.C. § 251 (c) (2). Titled "Interconnection," this regulation requires, in sum, that interconnection be provided at any technically feasible point within the network that is at a level of quality that is equal to that provided to itself and affiliates on terms and conditions that are just, reasonable, and nondiscriminatory. I have previously discussed that interconnection at retail facilities is technically feasible. It is important to point out, though, that pursuant to 47 C.F.R. § 305 (e), the burden falls on Verizon in this case to prove to the Commission that interconnection is not technically feasible. The FCC's Local Competition First Report and Order mandates that the level of proof required to carry this burden is by clear and convincing evidence.

I think it is clear that Verizon has violated the equality of interconnection standard as set forth in the Telecommunications Act and the FCC regs. Verizon policy of building new fiber facilities does not automatically violate this requirement, but the timing delays that result from such new construction and from other provisioning issues means the real life treatment of NCC in this case was not equal, according to the FCC standard, to the way that Verizon treats itself. Verizon's policy requires a CLEC to wait too long for interconnection with equal facilities in the form of the existing retail facility already in existence. It is noteworthy that resolution of this standard is not limited to consideration of service quality as perceived by end users, but also may consider service quality as perceived by the requesting telecommunications carrier. With respect to NCC's right to expect that it would be treated by Verizon in a just, reasonable, and nondiscriminatory manner, the above regulation spells out that the time within which interconnection is provided is a factor for consideration.

In summary, I conclude that Verizon's policy of building new and separate facilities for CLECs when existing capacity already exists is a violation of the Act, the FCC's rules, the relevant Illinois statutes, and the corresponding policies behind each. New and separate facilities don't automatically violate any quality of service rules since Verizon is offering the same sort of equipment and network to NCC that it uses for itself. However, this policy of new construction, by definition, imposes a serious time delay on the CLEC. Rather than achieve working interconnection in 30 days or less using the existing facilities, the CLEC is forced to wait for the much longer time interval for Verizon to design, engineer, implement and test a brand new facility to sit next to the existing facility. Verizon does not impose such rigid rules on itself when using the existing network, and when they require a CLEC to wait, they are violating the equal quality of interconnection standard as well as the standard of nondiscrimination.

Q. Does this conclude your direct testimony?

A. Yes.